



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

NOV 14 2012

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Tim Street, Vice President
Bahr Brothers Mfg., Inc.
Post Office Box 411
2545 Lincoln Boulevard
Marion, Indiana 46952

Re: Bahr Brothers Mfg., Inc., Administrative Consent Order EPA-5-13-113(a)-IN-01

Dear Mr. Street:

Enclosed is an executed original of the Administrative Consent Order, regarding the above captioned case. If you have any questions about the Order, please contact me at 312.886.6073.

Sincerely,

Brian H. Dickens

Brian H. Dickens
Chief
Air Enforcement and Compliance Assurance Branch (MN/OH)

Enclosure

CC: Phil Perry, IDEM

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:)	EPA-5-13-113(a)-IN-01
)	
Bahr Brothers Mfg., Inc.)	Proceeding Under Sections 113(a)(1),
Marion, Indiana)	113(a)(3) and 114(a)(1) of the Clean
)	Air Act, 42 U.S.C. §§ 7413(a)(1),
Respondent)	7413(a)(3), and 7414(a)(1)
_____)	

Administrative Consent Order

1. The Director of the Air and Radiation Division, U.S. Environmental Protection Agency, Region 5, is issuing this Order to Bahr Brothers Mfg., Inc. (Bahr), under Sections 113(a)(1), 113(a)(3) and 114(a)(1) of the Clean Air Act (Act), 42 U.S.C. §§ 7413(a)(1), 7413(a)(3) and 7414(a)(1).

Statutory and Regulatory Background

Standards of Performance for Calciners and Dryers in Mineral Industries

2. Section 111 of the Act, 42 U.S.C. § 7411, authorizes EPA to promulgate standards of performance for new stationary sources that fall within categories of sources that, in EPA's judgment, cause or contribute significantly to air pollution that may reasonably be anticipated to endanger public health or welfare. These regulations are known as New Source Performance Standards (NSPS).

3. Section 111(e) of the Act, 42 U.S.C. § 7411(e), states that after the effective date of standards of performance promulgated under this section, it shall be unlawful for any owner or operator of any new source to operate such source in violation of any standard of performance applicable to such source. Pursuant to Section 111(b) of the Act, 42 U.S.C. § 7411(b), EPA promulgated NSPS General Provisions at 40 C.F.R. §§ 60.1 through 60.19 (NSPS General

Provisions), and the NSPS for Calciners and Dryers in Mineral Industries and 40 C.F.R. Part 60, Subpart UUU (Subpart UUU).

4. Pursuant to 40 C.F.R. § 60.1(a), the NSPS General Provisions apply to the owner or operator of any stationary source that contains an affected facility, the construction of or modification of which is commenced after the date of publication in this part of any standard (or, if earlier, the date of publication of any proposed standard) applicable to that facility.

5. Under the NSPS General Provisions, any apparatus to which a standard is applicable is defined as an "affected facility." 40 C.F.R. § 60.2.

6. Under the NSPS General Provisions, owners or operators are required to, among other things:

a. Submit written notification of the following:

- i. The date construction of an affected facility is commenced, no later than 30 days after such date. 40 C.F.R. § 60.7(a)(1).
- ii. The actual date of initial startup of an affected facility, postmarked within 15 days after such date. 40 C.F.R. § 60.7(a)(3);.
- iii. Any physical or operational change to an existing facility which may increase the emission rate of any air pollutant to which a standard applies, within 60 days or as soon as practicable before the change is commenced. 40 C.F.R. § 60.7(a)(4).

b. Conduct a performance test on the affected facility and furnish to the Administrator a written report of the results of such performance test within 60 days after achieving the maximum production rate at which an affected facility

will be operated, but not later than 180 days after initial startup of such facility.

40 C.F.R. § 60.8(a).

7. The General Provisions of Part 60 also provide EPA authority to review and approve alternative monitoring requests submitted by owners or operators of affected facilities. 40 C.F.R. § 60.13(i).

8. The Administrator promulgated Subpart UUU on September 28, 1992. 57 Fed. Reg. 44503.

9. Pursuant to 40 C.F. R § 60.730(c), Subpart UUU applies to the owner or operator of an affected facility, as defined at 40 C.F.R. § 60.730(a), that commences construction, modification, or reconstruction after April 23, 1986. 40 C.F.R. § 60.730(a) defines “affected facility,” for the purposes of Subpart UUU, as “each calciner or dryer at a mineral processing plant.”

10. Subpart UUU includes, among other things, the following requirements:
- a. Each owner and operator of an affected facility must comply with the emission limitation of 0.092 gram per dry standard cubic meter (g/dscm) [0.040 grain per dry standard cubic foot (gr/dscf)] on and after the date on which the initial performance test required by 40 C.F.R. § 60.8 is completed, but not later than 180 days after the initial startup, whichever date comes first. 40 C.F.R. § 60.732(a).
 - b. No emissions discharged into the atmosphere from any affected facility may exhibit greater than 10 percent opacity. 40 C.F.R. § 60.732(b).
 - c. The owner or operator of an affected facility who uses a dry control device must meet the requirements for monitoring of emissions and operations set forth in 40 C.F.R. § 60.734.

- d. The owner or operator of an affected facility must maintain certain records and submit certain reports. 40 C.F.R. §§ 60.7 and 60.735.

11. Under Section 113(a)(3) of the Act, 42 U.S.C. § 7413(a)(3), the Administrator of EPA may issue an order requiring compliance to any person who has violated or is violating NSPS regulations. The Administrator has delegated this authority to the Director of the Air and Radiation Division.

Bahr's Federally Enforceable State Operating Permit

12. EPA approved Indiana's Federally Enforceable State Operating Permit (FESOP) program, 326 IAC 2-8-1 through 2-8-17, as part of the federally enforceable Indiana State Implementation Plan (SIP) on August 18, 1995. 60 Fed. Reg. 43008.

13. Under 326 IAC 2-8-2(a), any source required to have a Part 70 permit (Indiana's approved Title V operating permit program) may apply for a FESOP in lieu of a Part 70 permit.

14. On March 24, 2008, the Indiana Department of Environmental Management (IDEM) issued FESOP #053-26179-00022 to Bahr for its facility located at 2545 Lincoln Boulevard in Marion, Indiana.

15. FESOP #053-26179-00022 Condition D.1.5 requires the permittee to perform visible emission notations of the stack exhaust from the thermal sand reclaimer (EU6), mechanical sand reclaimer (EU7), Metfin table blast machine #1 (EU13), pangborn table blast machine #2 (EU14), wheelabrator tumble blast machine #1 (EU 15), and thermal sand reclaimer (EU19), daily during normal daylight operations. A trained employee must record whether the emissions are normal or abnormal.

16. FESOP #053-26179-00022 Condition D.1.6 requires the permittee to record the pressure drop across the baghouses used in conjunction with the thermal sand reclaimer (EU6),

mechanical sand reclaimer (EU7), Metfin table blast machine #1 (EU13), pangborn table blast machine #2 (EU14), wheelabrator tumble blast machine #1 (EU15), and thermal sand reclaimer (EU19) at least once daily when the emission unit is in operation.

17. 40 C.F.R. § 52.23 provides that failure to comply with any permit condition issued pursuant to approved or promulgated regulations under an applicable SIP is a violation of the SIP and subject to enforcement action under Section 113 of the Act, 42 U.S.C. § 7413.

18. Under Section 113(a)(1) of the Act, 42 U.S.C. § 7413(a)(1), the Administrator of EPA may issue an order requiring compliance to any person who has violated or is violating a SIP. The Administrator has delegated this authority to the Director of the Air and Radiation Division.

Information Gathering Authority

19. The Administrator of EPA may require any person who owns or operates an emission source to, among other things, make reports; install, use and maintain monitoring equipment; sample emissions; and provide information required by the Administrator under Section 114(a)(1) of the Act, 42 U.S.C. § 7414(a)(1). The Administrator has delegated this authority to the Director of the Air and Radiation Division.

Findings

20. Bahr owns and operates a steel and stainless steel foundry located at 2545 Lincoln Boulevard, Marion, Indiana (the Bahr Facility).

21. The Bahr Facility is a “stationary source” as that term is defined by the Act. 42 U.S.C. § 7602(z).

22. The Bahr Facility includes, among other things, a “mineral processing plant” as defined 40 C.F.R. § 60.731.

23. Bahr installed and began operation of two thermal sand reclamation units, EU3 and EU19, within its mineral processing plant in 1993 and 2004, respectively.

24. EU3 and EU19 are each a "calciner" as defined at 40 C.F.R. § 60.731 and therefore are each an affected facility under 40 C.F.R. Part 60, Subpart UUU.

25. EU3 and EU19 use separate dry control devices (baghouses).

26. EPA conducted an inspection at the Bahr Facility on July 19-20, 2011.

27. EPA issued a Notice of Violation/Finding of Violation (NOV/FOV) to Bahr on March 23, 2012, alleging Bahr failed to comply with certain requirements of the General Provisions of 40 C.F.R. Part 60 and of Subpart UUU; failed to perform visible emission notations of stack exhaust in accordance with FESOP #053-26179-00022 Condition D.1.5; and failed to record pressure drops for certain emission units in accordance with FESOP #053-26179-00022 Condition D.1.6.

28. Representatives of Bahr, Cornerstone Environmental, Health and Safety, Inc. (CEHS) and EPA held a conference call April 24, 2012 to discuss the NOV/FOV.

29. Representatives of Bahr, CEHS and EPA held a conference call on September 11, 2012 to discuss the outstanding NOV/FOV and a proposed path forward to resolve the alleged violations.

30. On January 11, 2012, CEHS provided Bahr employees a two-hour training course covering, among other topics, the proper way to take visual emissions readings, what parameters are monitored and recorded for emission control devices, and the steps to be taken should visual emissions are present.

31. CEHS provided Bahr with a revised *Operating Procedure of Daily Baggouse Inspection* and a revised *Procedure for Response to Excursions or Exceedances*, which lays out

steps to implement upon detecting an excursion or exceedance from a compliance-monitoring permit requirement.

Compliance Program

32. Bahr must achieve, demonstrate, and maintain compliance with the NSPS General Provisions, Subpart UUU, and its FESOP at the Bahr Facility.

33. Within 30 days after the effective date of this order, Bahr must submit written notifications pursuant to 40 C.F.R. § 60.7(a) identifying the dates construction of EU6 and EU19 began and was complete; the actual dates of initial startup of EU6 and EU19; and a statement identifying any physical or operational changes to EU6 and EU19 that may have increased the emission rate of any air pollutant and which occurred since the date of initial startup. If Bahr has not made any physical or operational changes to the thermal sand reclamation units, it should provide such a statement in the written notification.

34. Within 30 days after the effective date of this order, Bahr must submit a protocol to EPA for approval to conduct a performance test to demonstrate compliance of affected facilities EU6 and EU19 with 40 C.F.R. § 60.732. The protocol shall address all of the requirements of the 40 C.F.R. §§ 60.8, 60.732, and 60.736.

35. Within 60 days after the effective date of this Order, Bahr must conduct performance testing in accordance with the requirements of the protocol as approved by EPA and 40 C.F.R. §§ 60.8, 60.732, and 60.736. In summary, the performance testing must include EPA Reference Method 5 for particulate matter (three runs at least two hours each run and a sample volume of 1.70 dscm) and Method 9 for opacity.

36. Bahr must submit to EPA and IDEM an intent to test notification for the emission testing in accordance with 40 C.F.R. § 60.8(d).

37. Bahr must submit a complete report of the performance test results to EPA and IDEM within 60 days after completing the performance testing.

38. In lieu of compliance with the emission monitoring provisions of Subpart UUU under 40 C.F.R § 60.734, EPA has established the following alternative monitoring requirements for affected facilities EU6 and EU19 pursuant to 40 C.F.R. § 60.13(i). By the effective date of this Order, Bahr must perform daily visible emission readings using EPA Reference Method 22 of discharged emissions to the atmosphere from EU6 and EU19 once per day for every day when EU6 or EU19 are operating. These visible emission readings must be performed for each affected facility at the stack for the affected facility's baghouse and in/around the baghouse and baghouse ductwork to assure no leaks exist. These visible emission readings must be performed at a time when the affected facility is operating.

39. By the effective date of this Order, Bahr must maintain a written record of the results of each daily visible emission reading using Method 22 which states, "Yes, there were visible emissions observed" or "No, there were no visible emissions observed." Bahr must retain the written records for a minimum of two years and the records must be readily available for review on site by either EPA or IDEM.

40. Within 30 days after the effective date of this Order, Bahr must develop and submit to EPA for approval a corrective action plan to address visible emissions from EU6 or EU19. The corrective action plan must describe actions the facility will take to minimize and/or eliminate visible emissions if such visible emissions are observed from EU6 or EU19. The details of the corrective action plan will be developed by the facility, but should include, at a minimum, actions which demonstrate good air pollution control practices to minimize or eliminate visible emissions, root cause analyses of each visible emission event, and preventative

measures (where feasible) to be implemented to prevent such visible emissions from occurring again. Other actions may include: reduced load, shut down of the process unit causing the visible emissions, improved dry control device maintenance, or other similar actions. The corrective action plan will initially be developed based on the facility's past experience with visible emissions (and/or current requirements in permits to install and/or operate) but may be modified periodically as root cause analyses are performed.

41. Upon submittal of the corrective action plan required by Paragraph 40, Bahr shall implement and follow the corrective action plan if visible emissions are observed from EU6 or EU19.

42. Bahr must submit reports to EPA and IDEM summarizing the daily visible emissions readings, date and time of such readings, any periods of observed visible emissions, the cause of any observed visible emissions (i.e. the results of the root cause analyses), any corrective actions taken to minimize and/or eliminate the observed visible emissions, and any updates/revisions to the existing corrective action plan as a result of any visible emission event. These reports must be submitted, on a quarterly basis. Bahr may request a reduced reporting schedule after one year of quarterly report submittals, in accordance with 40 C.F.R. § 60.7.

43. Within 180 days after the effective date of this Order, Bahr must apply to IDEM for revisions to its FESOP. The application for the permit revision must request IDEM incorporate the requirements of Paragraphs 38 through 42 of this Order into the FESOP as federally enforceable conditions.

44. Bahr must submit a copy of the permit application to EPA simultaneously with submittal to the State.

45. All reports and other deliverables required by this Order must be sent to:

Attn: Compliance Tracker, AE-17J
Air Enforcement and Compliance Assurance Branch
U.S. EPA, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

46. Bahr must submit all documents required by this Order under an authorized signature with the following certification:

I certify under penalty of law that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to section 113(c)(2) of the Act, and 18 U.S.C. §§ 1001 and 1341.

General Provisions

47. Bahr neither admits nor denies the factual allegations and findings in this Order, but Bahr agrees to the terms of this Order and waives any right to contest or appeal the issuance of this Order.

48. This Order does not affect Bahr's responsibility to comply with other local, state, and federal laws and regulations.

49. This Order does not restrict EPA's authority to enforce the Indiana SIP, Section 111 of the Act, or any other section of the Act.

50. Nothing in this Order limits the EPA's authority to seek appropriate relief, including penalties, under Section 113 of the Act, 42 U.S.C. § 7413, for Bahr's violation of the Indiana SIP, the NSPS General Provision, or Subpart UUU.

51. Failure to comply with this Order may subject Bahr to penalties of up to \$37,500 per day for each violation under Section 113 of the Act, 42 U.S.C. § 7413, and 40 C.F.R. Part 19.

52. The terms of this Order are binding on Bahr, its assignees and successors. Bahr must give notice of this Order to any successors in interest prior to transferring ownership and must simultaneously verify to EPA, at the above address, that it has given the notice.

53. Bahr may assert a claim of business confidentiality under 40 C.F.R. Part 2, Subpart B, for any portion of the information it submits to EPA. Information subject to a business confidentiality claim is available to the public only to the extent allowed by 40 C.F.R. Part 2, Subpart B. If Bahr fails to assert a business confidentiality claim, EPA may make all submitted information available, without further notice, to any member of the public who requests it. Emission data provided under Section 114 of the Act, 42 U.S.C. § 7414, is not entitled to confidential treatment under 40 C.F.R. Part 2, Subpart B. "Emission data" is defined at 40 C.F.R. § 2.301.

54. This Order is not subject to the Paperwork Reduction Act, 44 U.S.C. § 3501 *et seq.*, because it seeks collection of information by an agency from specific individuals or entities as part of an administrative action or investigation. To aid in our electronic recordkeeping efforts, please furnish an electronic copy on physical media such as compact disk, flash drive or other similar item. If it is not possible to submit the information electronically, submit the response to this Order without staples; paper clips and binder clips, however, are acceptable.

55. EPA may use any information submitted under this Order in an administrative, civil judicial or criminal action.

56. This Order is effective on the date of signature by the Director of the Air and Radiation Division. This Order will terminate two years from the effective date, provided that Bahr has complied with all terms of the Order throughout its duration.

Administrative Consent Order

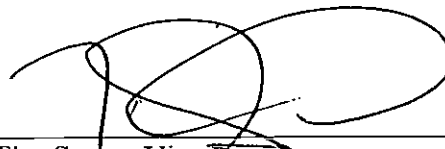
In the Matter of: Bahr Brothers Mfg., Inc., Marion Indiana

EPA-5-13-113(a)-IN-01

Bahr Brothers Mfg., Inc.

10-12-2012

Date

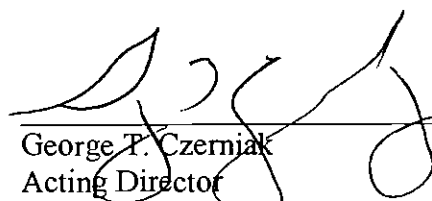


Tim Street, Vice President
Bahr Brothers Mfg., Inc.

United States Environmental Protection Agency

11/14/12

Date



George T. Czerniak
Acting Director
Air and Radiation Division
U.S. Environmental Protection Agency
Region 5

CERTIFICATE OF MAILING

I, Oneshia Hamilton, certify that I sent the Administrative Consent Order, EPA Order No. EPA-5-13-113(a)-IN-01, by Certified Mail, Return Receipt Requested, to:

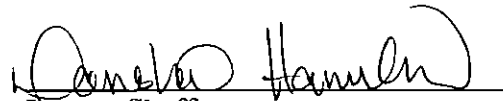
Tim Street, Vice President
Bahr Bros Mfg Inc
2545 Lincoln Boulevard
Marion, Indiana 46952

I also certify that I sent a copy of the Administrative Consent Order, EPA Order No. EPA-5-13-113(a)-IN-01, by First-Class Mail to:

Phil Perry, Chief
Office of Air Quality
Indiana Department of Environmental Management
100 North Senate Avenue
Indianapolis, Indiana 46206-2251

Mathew Chaifetz, Environmental Manager
Office of Air Quality
Indiana Department of Environmental Management
100 North Senate Avenue
Indianapolis, Indiana 46206-2251

On the 15 day of November 2012.


Loretta Shaffer,
Administrative Program Assistant
AECAB, PAS

CERTIFIED MAIL RECEIPT NUMBER:

7009 11680 0000 7669 7248